

AMENDED IN ASSEMBLY JUNE 16, 2005

AMENDED IN SENATE APRIL 26, 2005

SENATE BILL

No. 599

Introduced by Senator Machado

February 18, 2005

An act to amend Sections 63.1, 69.5, and 408.2 of the Revenue and Taxation Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 599, as amended, Machado. Property tax relief claim forms: public record exclusion.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution and existing property tax law excludes from a "change in ownership" specified property transfers between parents and their children and grandparents and their grandchildren if, among other conditions, a claim is filed for the exclusion. Existing law authorizes a person aged 55 years or older or who is severely and permanently disabled to transfer the base year value, as defined, of his or her principal residence to a comparable replacement dwelling, as specified, if, among other conditions, the person files a claim for this transfer.

This bill would specify that claims filed for the parent-child or grandparent-grandchild transfer change in ownership exclusion or for the authority to transfer a base year value to a replacement dwelling are not public documents and are not open for public inspection,

except to specified parties. This bill would also make findings regarding the bill's purposes and make conforming changes to a related provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that Sections
2 2 and 3 of this act, which amend Sections 63.1 and 69.5 of the
3 Revenue and Taxation Code, impose limitations on the public's
4 right of access to the meetings of public bodies or the writings of
5 public officials and agencies within the meaning of Section 3 of
6 Article I of the California Constitution. Pursuant to that
7 constitutional provision, the Legislature makes the following
8 findings to demonstrate the interest protected by this limitation
9 and the need for protecting that interest:
- 10 (a) Claims filed under Section 63.1 or Section 69.5 contain
11 taxpayer sensitive personal information, including social security
12 numbers, dates of birth, home addresses, home telephone
13 numbers, marital status, adoption status, financial matters, and
14 medical information. Notwithstanding Section 3 of Article I of
15 the California Constitution, county assessors have a
16 responsibility and an obligation to safeguard from public access
17 a taxpayer's personal information with which it has been
18 entrusted.
- 19 (b) The right to privacy is a personal and fundamental right
20 protected by Section 1 of Article I of the California Constitution
21 and by the United States Constitution. All individuals have a
22 right of privacy in information pertaining to them.
- 23 (c) This state has previously recognized, in Section 408.2 of
24 the Revenue and Taxation Code, the importance of protecting the
25 confidentiality and privacy of an individual's personal and
26 financial information contained in homeowners' exemption
27 claims, property statements, and change of ownership statements
28 filed with county assessors for property tax purposes.
- 29 (d) In addition to the right of privacy, there is a need to protect
30 from public disclosure personal information due to the growing
31 prevalence and debilitating nature of identity theft.

(e) It is not the intent of this measure to make confidential that a particular property has received a property tax benefit pursuant to Section 63.1 or Section 69.5 of the Revenue and Taxation Code, or the amount of the benefit, but only to protect the personal information contained in the claim form. In addition, the Legislature further finds that in determining the fiscal impact resulting from either of these provisions, county assessors may provide aggregated data on property in their counties that have been extended these property tax benefits.

SEC. 2. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars (\$1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the

1 one-million-dollar (\$1,000,000) full cash value limit specified in
2 paragraph (2) of subdivision (a).

3 (b) (1) For purposes of paragraph (1) of subdivision (a),
4 “principal residence” means a dwelling for which a homeowners’
5 exemption or a disabled veterans’ residence exemption has been
6 granted in the name of the eligible transferor. “Principal
7 residence” includes only that portion of the land underlying the
8 principal residence that consists of an area of reasonable size that
9 is used as a site for the residence.

10 (2) For purposes of paragraph (2) of subdivision (a), the
11 one-million-dollar (\$1,000,000) exclusion shall apply separately
12 to each eligible transferor with respect to all purchases by and
13 transfers to eligible transferees on and after November 6, 1986,
14 of real property, other than the principal residence, of that
15 eligible transferor. The exclusion shall not apply to any property
16 in which the eligible transferor’s interest was received through a
17 transfer, or transfers, excluded from change in ownership by the
18 provisions of either subdivision (f) of Section 62 or subdivision
19 (b) of Section 65, unless the transferor qualifies as an original
20 transferor under subdivision (b) of Section 65. In the case of any
21 purchase or transfer subject to this paragraph involving two or
22 more eligible transferors, the transferors may elect to combine
23 their separate one-million-dollar (\$1,000,000) exclusions and,
24 upon making that election, the combined amount of their separate
25 exclusions shall apply to any property jointly sold or transferred
26 by the electing transferors, provided that in no case shall the
27 amount of full cash value of real property of any one eligible
28 transferor excluded under this election exceed the amount of the
29 transferor’s separate unused exclusion on the date of the joint
30 sale or transfer.

31 (c) As used in this section:

32 (1) “Purchase or transfer between parents and their children”
33 means either a transfer from a parent or parents to a child or
34 children of the parent or parents or a transfer from a child or
35 children to a parent or parents of the child or children. For
36 purposes of this section, the date of any transfer between parents
37 and their children under a will or intestate succession shall be the
38 date of the decedent’s death, if the decedent died on or after
39 November 6, 1986.

1 (2) “Purchase or transfer of real property between
2 grandparents and their grandchild or grandchildren” means a
3 purchase or transfer on or after March 27, 1996, from a
4 grandparent or grandparents to a grandchild or grandchildren if
5 all of the parents of that grandchild or those grandchildren who
6 qualify as the children of the grandparents are deceased as of the
7 date of the transfer. For purposes of this section, the date of any
8 transfer between grandparents and their grandchildren under a
9 will or by intestate succession shall be the date of the decedent’s
10 death.

11 (3) “Children” means any of the following:

12 (A) Any child born of the parent or parents, except a child, as
13 defined in subparagraph (D), who has been adopted by another
14 person or persons.

15 (B) Any stepchild of the parent or parents and the spouse of
16 that stepchild while the relationship of stepparent and stepchild
17 exists. For purposes of this paragraph, the relationship of
18 stepparent and stepchild shall be deemed to exist until the
19 marriage on which the relationship is based is terminated by
20 divorce, or, if the relationship is terminated by death, until the
21 remarriage of the surviving stepparent.

22 (C) Any son-in-law or daughter-in-law of the parent or
23 parents. For the purposes of this paragraph, the relationship of
24 parent and son-in-law or daughter-in-law shall be deemed to exist
25 until the marriage on which the relationship is based is
26 terminated by divorce, or, if the relationship is terminated by
27 death, until the remarriage of the surviving son-in-law or
28 daughter-in-law.

29 (D) Any child adopted by the parent or parents pursuant to
30 statute, other than an individual adopted after reaching the age of
31 18 years.

32 (4) “Grandchild” or “grandchildren” means any child or
33 children of the child or children of the grandparent or
34 grandparents.

35 (5) “Full cash value” means full cash value, as defined in
36 Section 2 of Article XIII A of the California Constitution and
37 Section 110.1, with any adjustments authorized by those sections,
38 and the full value of any new construction in progress,
39 determined as of the date immediately prior to the date of a

1 purchase by or transfer to an eligible transferee of real property
2 subject to this section.

3 (6) “Eligible transferor” means a grandparent, parent, or child
4 of an eligible transferee.

5 (7) “Eligible transferee” means a parent, child, or grandchild
6 of an eligible transferor.

7 (8) “Real property” means real property as defined in Section
8 104. Real property does not include any interest in a legal entity.

9 (9) “Transfer” includes, and is not limited to, any transfer of
10 the present beneficial ownership of property from an eligible
11 transferor to an eligible transferee through the medium of an inter
12 vivos or testamentary trust.

13 (10) “Social security number” also includes a taxpayer
14 identification number issued by the Internal Revenue Service in
15 the case in which the taxpayer is a foreign national who cannot
16 obtain a social security number.

17 (d) (1) The exclusions provided for in subdivision (a) shall
18 not be allowed unless the eligible transferee, the transferee’s
19 legal representative, or the executor or administrator of the
20 transferee’s estate files a claim with the assessor for the
21 exclusion sought and furnishes to the assessor each of the
22 following:

23 (A) A written certification by the transferee, the transferee’s
24 legal representative, or the executor or administrator of the
25 transferee’s estate, signed and made under penalty of perjury that
26 the transferee is a grandparent, parent, child, or grandchild of the
27 transferor and that the transferor is his or her parent, child, or
28 grandparent. In the case of a grandparent-grandchild transfer, the
29 written certification shall also include a certification that all the
30 parents of the grandchild or grandchildren who qualify as
31 children of the grandparents were deceased as of the date of the
32 purchase or transfer and that the grandchild or grandchildren did
33 or did not receive a principal residence excludable under
34 paragraph (1) of subdivision (a) from the deceased parents, and
35 that the grandchild or grandchildren did or did not receive real
36 property other than a principal residence excludable under
37 paragraph (2) of subdivision (a) from the deceased parents. The
38 claimant shall provide legal substantiation of any matter certified
39 pursuant to this subparagraph at the request of the county
40 assessor.

1 (B) A written certification by the transferor, the transferor's
2 legal representative, or the executor or administrator of the
3 transferor's estate, signed and made under penalty of perjury that
4 the transferor is a grandparent, parent, or child of the transferee
5 and that the transferor is seeking the exclusion under this section
6 and will not file a claim to transfer the base year value of the
7 property under Section 69.5.

8 (C) A written certification shall also include either or both of
9 the following:

10 (i) If the purchase or transfer of real property includes the
11 purchase or transfer of residential real property, a certification
12 that the residential real property is or is not the transferor's
13 principal residence.

14 (ii) If the purchase or transfer of real property includes the
15 purchase or transfer of real property other than the transferor's
16 principal residence, a certification that other real property of the
17 transferor that is subject to this section has or has not been
18 previously sold or transferred to an eligible transferee, the total
19 amount of full cash value, as defined in subdivision (c), of any
20 real property subject to this section that has been previously sold
21 or transferred by that transferor to eligible transferees, the
22 location of that real property, the social security number of each
23 eligible transferor, and the names of the eligible transferees of
24 that property.

25 (D) If there are multiple transferees, the certification and
26 signature may be made by any one of the transferees, if both of
27 the following conditions are met:

28 (i) The transferee has actual knowledge that, and the
29 certification signed by the transferee states that, all of the
30 transferees are eligible transferees within the meaning of this
31 section.

32 (ii) The certification is signed by the transferee as a true
33 statement made under penalty of perjury.

34 (2) If the full cash value of the real property purchased by or
35 transferred to the transferee exceeds the permissible exclusion of
36 the transferor or the combined permissible exclusion of the
37 transferors, in the case of a purchase or transfer from two or more
38 joint transferors, taking into account any previous purchases by
39 or transfers to an eligible transferee from the same transferor or
40 transferors, the transferee shall specify in his or her claim the

1 amount and the allocation of the exclusion he or she is seeking.
2 Within any appraisal unit, as determined in accordance with
3 subdivision (d) of Section 51 by the assessor of the county in
4 which the real property is located, the exclusion shall be applied
5 only on a pro rata basis, however, and shall not be applied to a
6 selected portion or portions of the appraisal unit.

7 (e) (1) The State Board of Equalization shall design the form
8 for claiming eligibility. Except as provided in paragraph (2), any
9 claim under this section shall be filed:

10 (A) For transfers of real property between parents and their
11 children occurring prior to September 30, 1990, within three
12 years after the date of the purchase or transfer of real property for
13 which the claim is filed.

14 (B) For transfers of real property between parents and their
15 children occurring on or after September 30, 1990, and for the
16 purchase or transfer of real property between grandparents and
17 their grandchildren occurring on or after March 27, 1996, within
18 three years after the date of the purchase or transfer of real
19 property for which the claim is filed, or prior to transfer of the
20 real property to a third party, whichever is earlier.

21 (C) Notwithstanding subparagraphs (A) and (B), a claim shall
22 be deemed to be timely filed if it is filed within six months after
23 the date of mailing of a notice of supplemental or escape
24 assessment, issued as a result of the purchase or transfer of real
25 property for which the claim is filed.

26 (2) In the case in which the real property subject to purchase
27 or transfer has not been transferred to a third party, a claim for
28 exclusion under this section that is filed subsequent to the
29 expiration of the filing periods set forth in paragraph (1) shall be
30 considered by the assessor, subject to all of the following
31 conditions:

32 (A) Any exclusion granted pursuant to that claim shall apply
33 commencing with the lien date of the assessment year in which
34 the claim is filed.

35 (B) Under any exclusion granted pursuant to that claim, the
36 adjusted full cash value of the subject real property in the
37 assessment year described in subparagraph (A) shall be the
38 adjusted base year value of the subject real property in the
39 assessment year in which the excluded purchase or transfer took

1 place, factored to the assessment year described in subparagraph
2 (A) for both of the following:

3 (i) Inflation as annually determined in accordance with
4 paragraph (1) of subdivision (a) of Section 51.

5 (ii) Any subsequent new construction occurring with respect to
6 the subject real property.

7 (3) (A) Unless otherwise expressly provided, the provisions of
8 this subdivision shall apply to any purchase or transfer of real
9 property that occurred on or after November 6, 1986.

10 (B) Paragraph (2) shall apply to purchases or transfers
11 between parents and their children that occurred on or after
12 November 6, 1986, and to purchases or transfers between
13 grandparents and their grandchildren that occurred on or after
14 March 27, 1996.

15 (4) For purposes of this subdivision, a transfer of real property
16 to a parent or child of the transferor shall not be considered a
17 transfer to a third party.

18 (f) The assessor may report quarterly to the State Board of
19 Equalization all purchases or transfers, other than purchases or
20 transfers involving a principal residence, for which a claim for
21 exclusion is made pursuant to subdivision (d). Each report shall
22 contain the assessor's parcel number for each parcel for which
23 the exclusion is claimed, the amount of each exclusion claimed,
24 the social security number of each eligible transferor, and any
25 other information the board may require in order to monitor the
26 one-million-dollar (\$1,000,000) limitation in paragraph (2) of
27 subdivision (a). In recognition of the state and local interests
28 served by the action made optional in this subdivision, the
29 Legislature encourages the assessor to continue taking the action
30 formerly mandated by this subdivision.

31 (g) This section shall apply to both voluntary transfers and
32 transfers resulting from a court order or judicial decree. Nothing
33 in this subdivision shall be construed as conflicting with
34 paragraph (1) of subdivision (c) or the general principle that
35 transfers by reason of death occur at the time of death.

36 (h) (1) Except as provided in paragraph (2), this section shall
37 apply to purchases and transfers of real property completed on or
38 after November 6, 1986, and shall not be effective for any change
39 in ownership, including a change in ownership arising on the date
40 of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) A claim filed under this section is not a public document and is not subject to public inspection, *except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.*

SEC. 3. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if

1 the ordinance adopted by the board of supervisors complies with
2 all of the following requirements:

3 (A) It is adopted only after consultation between the board of
4 supervisors and all other local affected agencies within the
5 county's boundaries.

6 (B) It requires that all claims for transfers of base year value
7 from original property located in another county be granted if the
8 claims meet the applicable requirements of both subdivision (a)
9 of Section 2 of Article XIII A of the California Constitution and
10 this section.

11 (C) It requires that all base year valuations of original property
12 located in another county and determined by its assessor be
13 accepted in connection with the granting of claims for transfers
14 of base year value.

15 (D) It provides that its provisions are operative for a period of
16 not less than five years.

17 (E) The ordinance specifies the date on and after which its
18 provisions shall be applicable. However, the date specified shall
19 not be earlier than November 9, 1988. The specified applicable
20 date may be a date earlier than the date the county adopts the
21 ordinance.

22 (b) In addition to meeting the requirements of subdivision (a),
23 any person claiming the property tax relief provided by this
24 section shall be eligible for that relief only if the following
25 conditions are met:

26 (1) The claimant is an owner and a resident of the original
27 property either at the time of its sale, or at the time when the
28 original property was substantially damaged or destroyed by
29 misfortune or calamity, or within two years of the purchase or
30 new construction of the replacement dwelling.

31 (2) The original property is eligible for the homeowner's
32 exemption, as the result of the claimant's ownership and
33 occupation of the property as his or her principal residence, either
34 at the time of its sale, or at the time when the original property
35 was substantially damaged or destroyed by misfortune or
36 calamity, or within two years of the purchase or new construction
37 of the replacement dwelling.

38 (3) At the time of the sale of the original property, the
39 claimant or the claimant's spouse who resides with the claimant

1 is at least 55 years of age, or is severely and permanently
2 disabled.

3 (4) At the time of claiming the property tax relief provided by
4 subdivision (a), the claimant is an owner of a replacement
5 dwelling and occupies it as his or her principal place of residence
6 and, as a result thereof, the property is currently eligible for the
7 homeowner's exemption or would be eligible for the exemption
8 except that the property is already receiving the exemption
9 because of an exemption claim filed by the previous owner.

10 (5) The original property of the claimant is sold by him or her
11 within two years of the purchase or new construction of the
12 replacement dwelling. For purposes of this paragraph, the
13 purchase or new construction of the replacement dwelling
14 includes the purchase of that portion of land on which the
15 replacement building, structure, or other shelter constituting a
16 place of abode of the claimant will be situated and that, pursuant
17 to paragraph (3) of subdivision (g), constitutes a part of the
18 replacement dwelling.

19 (6) The replacement dwelling, including that portion of land
20 on which it is situated that is specified in paragraph (5), is located
21 entirely within the same county as the claimant's original
22 property.

23 (7) The claimant has not previously been granted, as a
24 claimant, the property tax relief provided by this section, except
25 that this paragraph shall not apply to any person who becomes
26 severely and permanently disabled subsequent to being granted,
27 as a claimant, the property tax relief provided by this section for
28 any person over the age of 55 years. In order to prevent
29 duplication of claims under this section within this state, county
30 assessors shall report quarterly to the State Board of Equalization
31 that information from claims filed in accordance with subdivision
32 (f) and from county records as is specified by the board necessary
33 to identify fully all claims under this section allowed by assessors
34 and all claimants who have thereby received relief. The board
35 may specify that the information include all or a part of the
36 names and social security numbers of claimants and their spouses
37 and the identity and location of the replacement dwelling to
38 which the claim applies. The information may be required in the
39 form of data processing media or other media and in a format

1 that is compatible with the recordkeeping processes of the
2 counties and the auditing procedures of the state.

3 (c) The property tax relief provided by this section shall be
4 available if the original property or the replacement dwelling, or
5 both, of the claimant includes, but is not limited to, either of the
6 following:

7 (1) A unit or lot within a cooperative housing corporation, a
8 community apartment project, a condominium project, or a
9 planned unit development. If the unit or lot constitutes the
10 original property of the claimant, the assessor shall transfer to the
11 claimant's replacement dwelling only the base year value of the
12 claimant's unit or lot and his or her share in any common area
13 reserved as an appurtenance of that unit or lot. If the unit or lot
14 constitutes the replacement dwelling of the claimant, the assessor
15 shall transfer the base year value of the claimant's original
16 property only to the unit or lot of the claimant and any share of
17 the claimant in any common area reserved as an appurtenance of
18 that unit or lot.

19 (2) A manufactured home or a manufactured home and any
20 land owned by the claimant on which the manufactured home is
21 situated. For purposes of this paragraph, "land owned by the
22 claimant" includes a pro rata interest in a resident-owned
23 mobilehome park that is assessed pursuant to subdivision (b) of
24 Section 62.1.

25 (A) If the manufactured home or the manufactured home and
26 the land on which it is situated constitutes the claimant's original
27 property, the assessor shall transfer to the claimant's replacement
28 dwelling either the base year value of the manufactured home or
29 the base year value of the manufactured home and the land on
30 which it is situated, as appropriate. If the manufactured home
31 dwelling that constitutes the original property of the claimant
32 includes an interest in a resident-owned mobilehome park, the
33 assessor shall transfer to the claimant's replacement dwelling the
34 base year value of the claimant's manufactured home and his or
35 her pro rata portion of the real property of the park. No transfer
36 of base year value shall be made by the assessor of that portion of
37 land that does not constitute a part of the original property, as
38 provided in paragraph (4) of subdivision (g).

39 (B) If the manufactured home or the manufactured home and
40 the land on which it is situated constitutes the claimant's

1 replacement dwelling, the assessor shall transfer the base year
2 value of the claimant's original property either to the
3 manufactured home or the manufactured home and the land on
4 which it is situated, as appropriate. If the manufactured home
5 dwelling that constitutes the replacement dwelling of the
6 claimant includes an interest in a resident-owned mobilehome
7 park, the assessor shall transfer the base year value of the
8 claimant's original property to the manufactured home of the
9 claimant and his or her pro rata portion of the park. No transfer
10 of base year value shall be made by the assessor to that portion of
11 land that does not constitute a part of the replacement dwelling,
12 as provided in paragraph (3) of subdivision (g).

13 This subdivision shall be subject to the limitations specified in
14 subdivision (d).

15 (d) The property tax relief provided by this section shall be
16 available to a claimant who is the coowner of the original
17 property, as a joint tenant, a tenant in common, or a community
18 property owner, subject to the following limitations:

19 (1) If a single replacement dwelling is purchased or newly
20 constructed by all of the coowners and each coowner retains an
21 interest in the replacement dwelling, the claimant shall be
22 eligible under this section whether or not any or all of the
23 remaining coowners would otherwise be eligible claimants.

24 (2) If two or more replacement dwellings are separately
25 purchased or newly constructed by two or more coowners and
26 more than one coowner would otherwise be an eligible claimant,
27 only one coowner shall be eligible under this section. These
28 coowners shall determine by mutual agreement which one of
29 them shall be deemed eligible.

30 (3) If two or more replacement dwellings are separately
31 purchased or newly constructed by two coowners who held the
32 original property as community property, only the coowner who
33 has attained the age of 55 years, or is severely and permanently
34 disabled, shall be eligible under this section. If both spouses are
35 over 55 years of age, they shall determine by mutual agreement
36 which one of them is eligible.

37 In the case of coowners whose original property is a multiunit
38 dwelling, the limitations imposed by paragraphs (2) and (3) shall
39 only apply to coowners who occupied the same dwelling unit

1 within the original property at the time specified in paragraph (2)
2 of subdivision (b).

3 (e) Upon the sale of original property, the assessor shall
4 determine a new base year value for that property in accordance
5 with subdivision (a) of Section 2 of Article XIII A of the
6 California Constitution and Section 110.1, whether or not a
7 replacement dwelling is subsequently purchased or newly
8 constructed by the former owner or owners of the original
9 property.

10 This section shall not apply unless the transfer of the original
11 property is a change in ownership that either (1) subjects that
12 property to reappraisal at its current fair market value in
13 accordance with Section 110.1 or 5803 or (2) results in a base
14 year value determined in accordance with this section, Section
15 69, or Section 69.3 because the property qualifies under this
16 section, Section 69, or Section 69.3 as a replacement dwelling or
17 property.

18 (f) A claimant shall not be eligible for the property tax relief
19 provided by this section unless the claimant provides to the
20 assessor, on a form that the assessor shall make available upon
21 request, the following information:

22 (1) The name and social security number of each claimant and
23 of any spouse of the claimant who is a record owner of the
24 replacement dwelling.

25 (2) Proof that the claimant or the claimant's spouse who
26 resided on the original property with the claimant was, at the
27 time of its sale, at least 55 years of age, or severely and
28 permanently disabled. Proof of severe and permanent disability
29 shall be considered a certification, signed by a licensed physician
30 and surgeon of appropriate specialty, attesting to the claimant's
31 severely and permanently disabled condition. In the absence of
32 available proof that a person is over 55 years of age, the claimant
33 shall certify under penalty of perjury that the age requirement is
34 met. In the case of a severely and permanently disabled claimant
35 either of the following shall be submitted:

36 (A) A certification, signed by a licensed physician or surgeon
37 of appropriate specialty that identifies specific reasons why the
38 disability necessitates a move to the replacement dwelling and
39 the disability-related requirements, including any locational
40 requirements, of a replacement dwelling. The claimant shall

1 substantiate that the replacement dwelling meets
2 disability-related requirements so identified and that the primary
3 reason for the move to the replacement dwelling is to satisfy
4 those requirements. If the claimant, or the claimant's spouse or
5 guardian, so declares under penalty of perjury, it shall be
6 rebuttably presumed that the primary purpose of the move to the
7 replacement dwelling is to satisfy identified disability-related
8 requirements.

9 (B) The claimant's substantiation that the primary purpose of
10 the move to the replacement dwelling is to alleviate financial
11 burdens caused by the disability. If the claimant, or the
12 claimant's spouse or guardian, so declares under penalty of
13 perjury, it shall be rebuttably presumed that the primary purpose
14 of the move is to alleviate the financial burdens caused by the
15 disability.

16 (3) The address and, if known, the assessor's parcel number of
17 the original property.

18 (4) The date of the claimant's sale of the original property and
19 the date of the claimant's purchase or new construction of a
20 replacement dwelling.

21 (5) A statement by the claimant that he or she occupied the
22 replacement dwelling as his or her principal place of residence on
23 the date of the filing of his or her claim.

24 The State Board of Equalization shall design the form for
25 claiming eligibility.

26 Any claim under this section shall be filed within three years of
27 the date the replacement dwelling was purchased or the new
28 construction of the replacement dwelling was completed subject
29 to subdivision (k) or (m).

30 (g) For purposes of this section:

31 (1) "Person over the age of 55 years" means any person or the
32 spouse of any person who has attained the age of 55 years or
33 older at the time of the sale of the original property.

34 (2) "Base year value of the original property" means its base
35 year value, as determined in accordance with Section 110.1, with
36 the adjustments permitted by subdivision (b) of Section 2 of
37 Article XIII A of the California Constitution and subdivision (f)
38 of Section 110.1, determined as of the date immediately prior to
39 the date that the original property is sold by the claimant, or in
40 the case where the original property has been substantially

1 damaged or destroyed by misfortune or calamity and the owner
2 does not rebuild on the original property, determined as of the
3 date immediately prior to the misfortune or calamity.

4 If the replacement dwelling is purchased or newly constructed
5 after the transfer of the original property, “base year value of the
6 original property” also includes any inflation factor adjustments
7 permitted by subdivision (f) of Section 110.1 for the period
8 subsequent to the sale of the original property. The base year or
9 years used to compute the “base year value of the original
10 property” shall be deemed to be the base year or years of any
11 property to which that base year value is transferred pursuant to
12 this section.

13 (3) “Replacement dwelling” means a building, structure, or
14 other shelter constituting a place of abode, whether real property
15 or personal property, that is owned and occupied by a claimant as
16 his or her principal place of residence, and any land owned by the
17 claimant on which the building, structure, or other shelter is
18 situated. For purposes of this paragraph, land constituting a part
19 of a replacement dwelling includes only that area of reasonable
20 size that is used as a site for a residence, and “land owned by the
21 claimant” includes land for which the claimant either holds a
22 leasehold interest described in subdivision (c) of Section 61 or a
23 land purchase contract. Each unit of a multiunit dwelling shall be
24 considered a separate replacement dwelling. For purposes of this
25 paragraph, “area of reasonable size that is used as a site for a
26 residence” includes all land if any nonresidential uses of the
27 property are only incidental to the use of the property as a
28 residential site. For purposes of this paragraph, “land owned by
29 the claimant” includes an ownership interest in a resident-owned
30 mobilehome park that is assessed pursuant to subdivision (b) of
31 Section 62.1.

32 (4) “Original property” means a building, structure, or other
33 shelter constituting a place of abode, whether real property or
34 personal property, that is owned and occupied by a claimant as
35 his or her principal place of residence, and any land owned by the
36 claimant on which the building, structure, or other shelter is
37 situated. For purposes of this paragraph, land constituting a part
38 of the original property includes only that area of reasonable size
39 that is used as a site for a residence, and “land owned by the
40 claimant” includes land for which the claimant either holds a

1 leasehold interest described in subdivision (c) of Section 61 or a
2 land purchase contract. Each unit of a multiunit dwelling shall be
3 considered a separate original property. For purposes of this
4 paragraph, “area of reasonable size that is used as a site for a
5 residence” includes all land if any nonresidential uses of the
6 property are only incidental to the use of the property as a
7 residential site. For purposes of this paragraph, “land owned by
8 the claimant” includes an ownership interest in a resident-owned
9 mobilehome park that is assessed pursuant to subdivision (b) of
10 Section 62.1.

11 (5) “Equal or lesser value” means that the amount of the full
12 cash value of a replacement dwelling does not exceed one of the
13 following:

14 (A) One hundred percent of the amount of the full cash value
15 of the original property if the replacement dwelling is purchased
16 or newly constructed prior to the date of the sale of the original
17 property.

18 (B) One hundred and five percent of the amount of the full
19 cash value of the original property if the replacement dwelling is
20 purchased or newly constructed within the first year following
21 the date of the sale of the original property.

22 (C) One hundred and ten percent of the amount of the full cash
23 value of the original property if the replacement dwelling is
24 purchased or newly constructed within the second year following
25 the date of the sale of the original property.

26 For the purposes of this paragraph, except as otherwise
27 provided in paragraph (4) of subdivision (h), if the replacement
28 dwelling is, in part, purchased and, in part, newly constructed,
29 the date the “replacement dwelling is purchased or newly
30 constructed” is the date of purchase or the date of completion of
31 construction, whichever is later.

32 (6) “Full cash value of the replacement dwelling” means its
33 full cash value, determined in accordance with Section 110.1, as
34 of the date on which it was purchased or new construction was
35 completed, and after the purchase or the completion of new
36 construction.

37 (7) “Full cash value of the original property” means, either:

38 (A) Its new base year value, determined in accordance with
39 subdivision (e), without the application of subdivision (h) of
40 Section 2 of Article XIII A of the California Constitution, plus

the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1, for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) “Sale” means any change in ownership of the original property for consideration.

(9) “Claimant” means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) “Property that is eligible for the homeowner’s exemption” includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) “Person” means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) “Severely and permanently disabled” means any person described in subdivision (b) of Section 74.3.

(13) For the purposes of this section property is “substantially damaged or destroyed by misfortune or calamity” if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access

1 was caused by the misfortune or calamity and is permanent in
2 nature.

3 (h) (1) Upon the timely filing of a claim, the assessor shall
4 adjust the new base year value of the replacement dwelling in
5 conformity with this section. This adjustment shall be made as of
6 the latest of the following dates:

7 (A) The date the original property is sold.

8 (B) The date the replacement dwelling is purchased.

9 (C) The date the new construction of the replacement dwelling
10 is completed.

11 (2) Any taxes that were levied on the replacement dwelling
12 prior to the filing of the claim on the basis of the replacement
13 dwelling's new base year value, and any allowable annual
14 adjustments thereto, shall be canceled or refunded to the claimant
15 to the extent that the taxes exceed the amount that would be due
16 when determined on the basis of the adjusted new base year
17 value.

18 (3) Notwithstanding Section 75.10, Chapter 3.5 (commencing
19 with Section 75) shall be utilized for purposes of implementing
20 this subdivision, including adjustments of the new base year
21 value of replacement dwellings acquired prior to the sale of the
22 original property.

23 (4) In the case where a claim under this section has been
24 timely filed and granted, and new construction is performed upon
25 the replacement dwelling subsequent to the transfer of base year
26 value, the property tax relief provided by this section also shall
27 apply to the replacement dwelling, as improved, and thus there
28 shall be no reassessment upon completion of the new
29 construction if both of the following conditions are met:

30 (A) The new construction is completed within two years of the
31 date of the sale of the original property and the owner notifies the
32 assessor in writing of completion of the new construction within
33 30 days after completion.

34 (B) The fair market value of the new construction on the date
35 of completion, plus the full cash value of the replacement
36 dwelling on the date of acquisition, is not more than the full cash
37 value of the original property as determined pursuant to
38 paragraph (7) of subdivision (g) for purposes of granting the
39 original claim.

1 (i) Any claimant may rescind a claim for the property tax
2 relief provided by this section and shall not be considered to have
3 received that relief for purposes of paragraph (7) of subdivision
4 (b), and the assessor shall grant the rescission, if a written notice
5 of rescission is delivered to the office of the assessor as follows:

6 (1) A written notice of rescission signed by the original filing
7 claimant or claimants is delivered to the office of the assessor in
8 which the original claim was filed.

9 (2) (A) Except as otherwise provided in this paragraph, the
10 notice of rescission is delivered to the office of the assessor
11 before the date that the county first issues, as a result of relief
12 granted under this section, a refund check for property taxes
13 imposed upon the replacement dwelling. If granting relief will
14 not result in a refund of property taxes, then the notice shall be
15 delivered before payment is first made of any property taxes, or
16 any portion thereof, imposed upon the replacement dwelling
17 consistent with relief granted under this section. If payment of
18 the taxes is not made, then notice shall be delivered before the
19 first date that those property taxes, or any portion thereof,
20 imposed upon the replacement dwelling, consistent with relief
21 granted under this section, are delinquent.

22 (B) Notwithstanding any other provision in this division, any
23 time the notice of rescission is delivered to the office of the
24 assessor within six years after relief was granted, provided that
25 the replacement property has been vacated as the claimant's
26 principal place of residence within 90 days after the original
27 claim was filed, regardless of whether the property continues to
28 receive the homeowner's exemption. If the rescission increases
29 the base year value of a property, or the homeowners' exemption
30 has been incorrectly allowed, appropriate escape assessments or
31 supplemental assessments, including interest as provided in
32 Section 506, shall be imposed. The limitations periods for any
33 escape assessments or supplemental assessments shall not
34 commence until July 1 of the assessment year in which the notice
35 of rescission is delivered to the office of the assessor.

36 (3) The notice is accompanied by the payment of a fee as the
37 assessor may require, provided that the fee shall not exceed an
38 amount reasonably related to the estimated cost of processing a
39 rescission claim, including both direct costs and developmental

1 and indirect costs, such as costs for overhead, personnel,
2 supplies, materials, office space, and computers.

3 (j) (1) With respect to the transfer of base year value of
4 original properties to replacement dwellings located in the same
5 county, this section, except as provided in paragraph (3) or (4),
6 shall apply to any replacement dwelling that is purchased or
7 newly constructed on or after November 6, 1986.

8 (2) With respect to the transfer of base year value of original
9 properties to replacement dwellings located in different counties,
10 except as provided in paragraph (4), this section shall apply to
11 any replacement dwelling that is purchased or newly constructed
12 on or after the date specified in accordance with subparagraph
13 (E) of paragraph (2) of subdivision (a) in the ordinance of the
14 county in which the replacement dwelling is located, but shall not
15 apply to any replacement dwelling which was purchased or
16 newly constructed before November 9, 1988.

17 (3) With respect to the transfer of base year value by a
18 severely and permanently disabled person, this section shall
19 apply only to replacement dwellings that are purchased or newly
20 constructed on or after June 6, 1990.

21 (4) The amendments made to subdivision (e) by the act adding
22 this paragraph shall apply only to replacement dwellings under
23 Section 69 that are acquired or newly constructed on or after
24 October 20, 1991, and shall apply commencing with the 1991-92
25 fiscal year.

26 (k) (1) In the case in which a county adopts an ordinance
27 pursuant to paragraph (2) of subdivision (a) that establishes an
28 applicable date which is more than three years prior to the date of
29 adoption of the ordinance, those potential claimants who
30 purchased or constructed replacement dwellings more than three
31 years prior to the date of adoption of the ordinance and who
32 would, therefore, be precluded from filing a timely claim, shall
33 be deemed to have timely filed a claim if the claim is filed within
34 three years after the date that the ordinance is adopted. This
35 paragraph may not be construed as a waiver of any other
36 requirement of this section.

37 (2) In the case in which a county assessor corrects a base year
38 value to reflect a pro rata change in ownership of a
39 resident-owned mobilehome park that occurred between January
40 1, 1989, and January 1, 2002, pursuant to paragraph (4) of

1 subdivision (b) of Section 62.1, those claimants who purchased
2 or constructed replacement dwellings more than three years prior
3 to the correction and who would, therefore, be precluded from
4 filing a timely claim, shall be deemed to have timely filed a claim
5 if the claim is filed within three years of the date of notice of the
6 correction of the base year value to reflect the pro rata change in
7 ownership. This paragraph may not be construed as a waiver of
8 any other requirement of this section.

9 (3) This subdivision does not apply to a claimant who has
10 transferred his or her replacement dwelling prior to filing a claim.

11 (4) The property tax relief provided by this section, but filed
12 under this subdivision, shall apply prospectively only,
13 commencing with the lien date of the assessment year in which
14 the claim is filed. There shall be no refund or cancellation of
15 taxes prior to the date that the claim is filed.

16 (I) No escape assessment may be levied if a transfer of base
17 year value under this section has been erroneously granted by the
18 assessor pursuant to an expired ordinance authorizing intercounty
19 transfers of base year value.

20 (m) (1) The amendments made to subdivisions (b) and (g) of
21 this section by Chapter 613 of the Statutes of 2001 shall apply:

22 (A) With respect to the transfer of base year value of original
23 properties to replacement dwellings located in the same county,
24 to any replacement dwelling that is purchased or newly
25 constructed on or after November 6, 1986.

26 (B) With respect to the transfer of base year value of original
27 properties to replacement dwellings located in different counties,
28 to any replacement dwelling that is purchased or newly
29 constructed on or after the date specified in accordance with
30 subparagraph (E) of paragraph (2) of subdivision (a) in the
31 ordinance of the county in which the replacement dwelling is
32 located, but not to any replacement dwelling that was purchased
33 or newly constructed before November 9, 1988.

34 (C) With respect to the transfer of base year value by a
35 severely and permanently disabled person, to replacement
36 dwellings that are purchased or newly constructed on or after
37 June 6, 1990.

38 (2) The property tax relief provided by this section in
39 accordance with this subdivision shall apply prospectively only
40 commencing with the lien date of the assessment year in which

1 the claim is filed. There shall be no refund or cancellation of
2 taxes prior to the date that the claim is filed. Notwithstanding
3 subdivision (f), a claim shall be deemed to be timely filed if it is
4 filed within four years after the operative date of the act adding
5 this paragraph.

6 (n) A claim filed under this section is not a public document
7 and is not subject to public inspection, *except that a claim shall*
8 *be available for inspection by the transferee and the transferor*
9 *or their respective spouse, the transferee's legal representative,*
10 *the transferor's legal representative, and the executor or*
11 *administrator of the transferee's or transferor's estate.*

12 SEC. 4. Section 408.2 of the Revenue and Taxation Code is
13 amended to read:

14 408.2. (a) Except as otherwise provided in Sections 63.1,
15 69.5, 451, and 481 of this code and in Section 6254 of the
16 Government Code, any information and records in the assessor's
17 office which are required by law to be kept or prepared by the
18 assessor, other than homeowners' exemption claims, are public
19 records and shall be open to public inspection. Property receiving
20 the homeowners' exemption shall be clearly identified on the
21 assessment roll. The assessor shall maintain records which shall
22 be open to public inspection to identify those claimants who have
23 been granted the homeowners' exemption.

24 (b) The assessor may provide any appraisal data in his or her
25 possession to the assessor of any county and shall provide any
26 market data in his or her possession to an assessee of property or
27 his or her designated representative upon request. The assessor
28 shall permit an assessee of property or his or her designated
29 representative to inspect at the assessor's office any information
30 and records, whether or not required to be kept or prepared by the
31 assessor, relating to the appraisal and the assessment of his or her
32 property. Except as provided in Section 408.1, an assessee or his
33 or her designated representative, however, shall not be provided
34 or permitted to inspect information and records, other than
35 market data, which also relate to the property or business affairs
36 of another person, unless that disclosure is ordered by a
37 competent court in a proceeding initiated by a taxpayer seeking
38 to challenge the legality of his or her assessment.

39 (c) The assessor shall disclose information, furnish abstracts,
40 or permit access to all records in his or her office to law

1 enforcement agencies, the county grand jury, the board of
2 supervisors or their duly authorized agents, employees or
3 representatives when conducting an investigation of the
4 assessor's office pursuant to Section 25303 of the Government
5 Code, the Controller, probate referees, employees of the
6 Franchise Tax Board for tax administration purposes only, the
7 State Board of Equalization, and other duly authorized legislative
8 or administrative bodies of the state pursuant to their
9 authorization to examine the records.

10 (d) For purposes of this section, "market data" means any
11 information in the assessor's possession, whether or not required
12 to be prepared or kept by him or her, relating to the sale of any
13 property comparable to the property of the assessee, if the
14 assessor bases his or her assessment of the assessee's property, in
15 whole or in part, on that comparable sale or sales. The assessor
16 shall provide the names of the seller and buyer of each property
17 on which the comparison is based, the location of that property,
18 the date of the sale, and the consideration paid for the property,
19 whether paid in money or otherwise, but for purposes of
20 providing market data, the assessor shall not display any
21 document relating to the business affairs or property of another.

22 (e) This section applies only to a county with a population that
23 exceeds 4,000,000.